



DATE:

APPROVED  
BY:

David J. Radachy, Secretary

## **MINUTES OF THE LAKE COUNTY PLANNING COMMISSION**

**June 28, 2016**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chair Morse called the meeting to order at 5:30 p.m.

### **ROLL CALL**

Mr. Radachy took a roll call attendance and the following members were present: Messrs. Brotzman, Graham (Alt. for Adams), Morse, Siegel, Valentic, Walker (Alt. for Malecek), Zondag and Mmes. Hausch and Pesec (Alt. for Moran). Legal Counsel present was Assistant Prosecutor Gianine Germano. Planning and Community Development Staff present were Mr. Radachy and Mmes. Jordan and Myers.

### **MINUTES**

#### May 3, 2016 Minutes

Mr. Zondag moved and Mr. Brotzman seconded the motion to approve the May 3, 2016 minutes as submitted.

Five voted "Aye".  
Mr. Walker Abstained.  
Mr. Morse Abstained.

### **FINANCIAL REPORT**

Mr. Radachy did not have anything to bring to the Commission's attention concerning the Financial Reports for April and May of 2016.

#### April 2016 Financial Report

Mr. Zondag moved and Mr. Graham seconded the motion to accept the April 2016 Financial Report as submitted.

Seven voted "Aye".

#### May 2016 Financial Report

Mr. Brotzman moved and Mr. Zondag seconded the motion to accept the May 2016 Financial Report as submitted.

Seven voted "Aye".

#### PUBLIC COMMENT

Mr. David Novak of Barrington Consulting Group at 9114 Tyler Blvd., Mentor, Ohio, commented that he had the pleasure of going to the Northeast Ohio Planning and Zoning Workshop, of which Mr. Radachy is the Committee Chairman. Mr. Novak stated that Mr. Radachy and his team had done a fabulous job again this year.

#### LEGAL REPORT

Ms. Gianine Germano, Lake County Assistant Prosecutor, said there was no legal report.

#### DIRECTOR'S REPORT

Mr. Radachy gave the following report:

- The Director and Ms. Jordan attended a Plan4Health Workshop in Baltimore from June 20 to June 22, where they learned more about the Plan4Health grant, other grants, and went on some field checks including rails to trails, which connect bike paths around the City of Baltimore.
- The Northeast Ohio Planning and Zoning workshop was successful. There were 105 individuals in attendance and many positive comments were received from the evaluations.

#### ANNOUNCEMENTS

There were no announcements.

#### SUBDIVISION REVIEW

##### Concord Township – Concord Ridge Subdivision, Phase 5, Final Plat and Improvement Plans, 13 Lots, 33.5227 Acres

Ms. Jordan introduced the Concord Ridge Subdivision, Phase 5, Final Plat and Improvement Plans, to be discussed. There were 13 lots with 33.5227 acres of land zoned R-2, RCD, in Concord Township. Concord Ridge Development, LLC is the Developer and Polaris Engineering is the Engineer/Surveyor. Lot sizes are approximately .5 acres. The Phase has 7.4353 acres of open space. A total of 21.2116 acres of open space has been platted for all phases.

This Subdivision connects the Summerwood and Stanford Springs subdivisions. The Preliminary Plan was approved in October of 2015. Concord Ridge is located adjacent to Concord-Hambden Road. Property to the north of this site is zoned R-4; to the south and east is zoned R-2 RCD; and to the west is R-4.

The following proposed stipulations and comments were submitted by staff:

**Final Plat Stipulations:**

- 1) All subdivision final plats shall be referenced to Ohio State Plane Coordinates, 1983 Horizontal NAD, and 1988 NAVD for vertical control. A minimum of two (2) points shall be tied to OSPC. *Article III, Section 6(C)(5)*
- 2) The location of the Subdivision by permanent parcel number shall be included on the Final Plat cover sheet, as well as a north arrow on the vicinity map. *Article III, Section 6(D)(1)(a)*
- 3) Local Service Drainage Easements are shown on the Final Plat, so the cover sheet shall contain Local Service Drainage Easement language. *Article III, Section 6(D)(1)(e)*
- 4) Monuments are not indicated clearly. Show accurate locations of all monuments and ensure that they are clearly identified. *Article III, Section 6(D)(3)(g)*
- 5) There is an existing temporary drainage easement in the proposed right-of-way of Crossroads Drive. It must be shown on the Final Plat and a note must be made that it will be extinguished due to the dedication of the proposed street. *Article III, Section 6(D)(3)(i)*
- 6) Block A and Block F should be one block. *LCPCD*
- 7) Plans are subject to additional review by the Lake County Engineer.

**Final Plat Comments:**

- 1) A sanitary service easement may be required for Sublot 9 if the subplot connects to the 20' sanitary sewer easement located in the open space. *LCPCD*

**Improvement Plan Stipulations:**

- 1) Until plans for the Subdivision are approved, properly endorsed and recorded, no improvements, such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Article I, Sec 4(B)*
- 2) A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99).

ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District. *Article IV, Section 3(E); Article IV, Section 3(F); Article V, Section 4(A); Article V, Section 4(B); Article V, Section 4(C)*

- 3) The SWPPP Plan will require revisions, including silt fence locations, diversion swales, temporary stockpile locations, critical area seeding buffers, skimmer installation, construction drive, and SWP3 note revisions. *LCSWCD*
- 4) It is requested that in accordance with Concord Township Resolution 2004-05 that an island be included in the Cul-de-sac portion of Concord Ridge Phase 5. *Concord Township Service Department*
- 5) Fire hydrants must be self-draining and equipped with a 5 inch Stortz fitting on the steamer outlet. *Concord Township Fire Chief*
- 6) Fire department to be notified of all scheduled flushing and hydrostatic testing of the underground piping and hydrants. *Concord Township Fire Chief*
- 7) Fire hydrants must be at finished grade for fire department operation. *Concord Township Fire Chief*
- 8) NO PARKING HYDRANT SIDE OF STREET signage must be installed prior to start of construction of homes. *Concord Township Fire Chief*
- 9) Building number identification must be provided during construction of homes. *Concord Township Fire Chief*
- 10) Plans are subject to additional review by the Lake County Engineer.

**Improvement Plan Comments:**

- 1) There is concern regarding the proximity of Sublots 4, 5, 6, 7, 8, 9, 10, 12, and 13 to remaining wetlands. *LCSWCD*
- 2) A detailed plan review will be forthcoming when plans are submitted. *Lake County Sanitary Engineer*
- 3) Street and fire hydrants must be installed and operational prior to start of construction of homes. *Concord Township Fire Chief*
- 4) Roadways and fire apparatus roads shall not exceed 10 percent in grade with all turns having a minimum turning radius of 28 feet. *Concord Township Fire Chief*
- 5) All temporary or permanent cul-de-sacs must be provided with a minimum diameter of 120 feet per the OFC Appendix D Section D103.3. *Concord Township Fire Chief*

Ms. Jordan stated that the monuments were not indicated clearly on the Final Plat. They are to show accurate locations of all monuments to ensure they are clearly identified. Block A should be eliminated and be combined with Block F.

Staff recommends approval of the Concord Ridge, Phase 5, Final Plat with seven stipulations and one comment and the Improvement Plans with 10 stipulations and five comments.

Mr. Graham moved to approve the Concord Ridge, Phase 5, Final Plat with seven stipulations and one comment and the Improvement Plans with 10 stipulations and five comments and Mr. Walker seconded the motion.

Ms. Pesecc arrived at 5:42 p.m.

Seven voted "Aye".  
Motion passed.

#### Leroy Township - Stein Farm Phases 1-4 Final Plats Extension

Mr. Radachy stated that the Final Plats for Stein Farms, Phases 1-4, in Leroy Township were approved on March 25, 2014. The Developer is Leroy-1, LLC and the Engineer is Barrington Consulting Group. A Final Plat extension, requested by the Developer, was tabled at the previous Planning Commission meeting to allow for the Leroy Township Trustees' response to be received. The item must be taken off the table before discussion.

Mr. Zondag moved to take the Final Plats of Stein Farms, Phases 1-4, off the table. Ms. Hausch seconded the motion.

Seven voted "Aye".  
Motion passed.

Mr. Siegel arrived at 5:45 p.m.

Ms. Jordan stated that this Subdivision was off of Leroy Thompson Road. A general comment was made that the Final Plat is currently legal non-conforming, as it was approved with 1½ acre lots and the current zoning lot size allowed by zoning is three acres. The Lake County Planning Commission granted a variance allowing the Developer to submit a Plat without Improvement Plans. Additionally, the Subdivision does not have the approval of the Lake County General Health District.

The staff recommends approval of the Final Plat extension for one year.

A Township comment has been received and Ms. Jordan read the following:

"On behalf of the Leroy Township Trustees I would like to inform you that we are not in favor of granting an extension for the proposed Stein Farm Subdivision. Our reasons are simple, as our current zoning now requires a three lot minimum for new land parcels. We believe the time that was granted to him to move forward on this project was enough to get started and there has been no progress made regarding his proposed plan. Please consider our recommendations when deciding on this request. Thank you. Heather Shelton, Leroy Township Trustee."

Ms. Jordan said the Final Plat was approved with 15 Final Plat stipulations and six Final Plat comments in Phase 1; 14 stipulations and five comments in Phase 2; 14 stipulations and five comments in Phase 3; and 14 stipulations and five comments in Phase 4.

Mr. Radachy stated that this Subdivision was approved prior to the three-acre rezoning, and its lots have become legal non-conforming, even though the property has not been recorded. The Planning Commission has granted extensions for other subdivisions in the past, including up to two one-year extensions on Final Plats. This keeps us somewhat consistent to what actions have been taken in the past. Mr. Radachy was concerned if the 1½ acres originally approved would still remain if we did not approve the variance. The Planning Commission suggested looking into this issue. If the extension is recommended to be approved, the Planning Commission could pursue the legal issues associated with the 1½ acre lots and also give the Developer another year to submit their Improvement Plans finished and receive approval by the Planning Commission.

Mr. Radachy said this extension would allow the Developer time to continue developing plans with the 1½ acre lots, try to develop improvement plans, and attempt to get them approved by the Health District. The Health District will take plans to the Board of Health. They would have to get septic and wells approved for these lots. If they do not approve them, the developer would have to change it to larger lots.

Mr. Brotzman asked if this was their first or second request and staff said it was the Developer's first request.

Mr. Radachy said the Subdivision Regulations state that up to two one-year extensions can be requested.

Ms. Pesec asked Mr. Radachy if extensions always had to be granted and was told they do not. She also asked if we had ever not granted them in the past and was told no.

Mr. David Novak, Barrington Consulting Group, at 9114 Tyler Road, Mentor, stated that this property was purchased by the Developer when the zoning allowed 1½-acre lots. If three-acre lots become enforced, then the value of what he paid for this property would basically be cut in half. The Developer needs to get a response from the Prosecutor's Office concerning the possibility of losing the 1½ acre lots if this Plan were to be denied.

Also, Mr. Novak understands that there has been only one permit issued in Leroy Township in the last five years. He believes they have issued four permits this year. From an economic standpoint, when looking at roadways costing \$330-400 a linear foot to install, we need to make sure we have a market to sell these lots. His client would not have purchased this property if he did not believe he could sell them. Thereby, they are asking for the one-year extension to, hopefully, get some feedback from the Planning Commission, Mr. Radachy and the Prosecutor to verify their standing on the 1½ acre lot zoning versus the three-acre lot zoning.

Mr. Zondag asked if he believed these properties would hold the wells and septic and Mr. Novak said, "Yes, he believed they would."

Mr. Novak said Laura Kuntz was the Director of the Health Department at the time this Subdivision was started and had said there were some studies done, possibly by the Department of Natural Resources, on the top of the bluff and the water was declared good.

Mr. Graham asked if he had soil testing done.

Mr. Novak stated that they did not have soil testing done, but in January of 2015, the State of Ohio adopted new on-site sewage regulations. They have made some enhancements, such as using drips or Wisconsin mounds that, in his opinion, would allow them to be able to install septic systems on those lots. Even before the enhancements, the original development plan showed locations based on the Lake County Soil Maps (not site-specific soil borings), which would allow development of septic systems on 1½ acre lots. The Developer and Engineer want foremost to preserve their 1½ acre lot zoning.

Mr. Zondag stated concerns about when they would determine if there is water and septic abilities on site and whether the landowner or the Engineer would be responsible for doing this before the land is developed. He questioned if it was the responsibility of the Engineer to conduct evaluations before the landowners move in or the potential homeowner's responsibility to check that when they move in.

Mr. Novak explained that, as part of the approval process, on every lot, at minimum, the Developer's Engineer would be required to do one test hole for soil work. We may have to do more than one for the Health Department to help them determine if a septic system could be supported. They would want to do that so they would be able to sell these lots to prospective homeowners because there are some areas within Leroy Township that are difficult in respect to getting water.

Mr. Zondag wanted to know who would be responsible if they got into a lot that would not perk or would not hit a well that would give water.

Mr. Novak stated that, if he were a prospective homeowner, he would make it a condition of sale that engineering groups like his have all the necessary soil work done and have a well drilled so that the homeowner would know he or she was purchasing a buildable lot.

Mr. Siegel believed a lot could not be sold without a perk test.

Mr. Novak said that in the initial design, the amount of soil work that needs to be done on each individual lot is minimal. You could look at the Lake County Soil Map to see what they have listed, but that is not specific enough per lot. There would have to be some general soil work done to demonstrate to the Lake County Health Department that these lots are buildable. Something in the paperwork states that this is not a guarantee. A lot plotted because we think a house can be built there, is not a guarantee. The Health Department would not issue a permit until you go through getting enough test holes on the property to demonstrate that a septic system could be built. A lot of things have been added into the new regulations and drip systems are actually part of the code now.

Mr. Novak said he had submitted a report showing flow rates. He understands that the water is sufficient.

Mr. Graham stated he is from the Health District and that septic systems are easier than a drip system. He is not concerned about the septic systems on 1½ acre lots. He was more concerned about the availability of water.

Mr. Brotzman said he saw the need for the extension because of the slow economy and for waiting on the decision from the Prosecutor's office to see if the 1½ acre lots were going to stand.

Mr. Radachy stated that the question on 1½ lots has not yet been submitted to the Prosecutor. Mr. Radachy apologized if he had given Mr. Novak the impression that this issue had already been submitted to the Prosecutor. The opinion will be forthcoming at the convenience of the Prosecutor's schedule. A one year extension should be enough time to encapsulate that timeframe.

Mr. Graham would have liked to see a document from the Prosecutor's office stating whether the lot size would change if an extension was denied on this.

Mr. Graham moved to approve a one-year Final Plat extension for Stein Farms, Phases 1-4, in Leroy Township and Mr. Siegel seconded the motion.

Seven voted "Aye".  
One voted "Nay".

Painesville Township – Lake Terrace Estates, Revised Preliminary Plan, 1 Lot, 4.109 Acres & 1 Block, 9.687 Acres

Ms. Jordan introduced the Lake Terrace Estates resubmitted Preliminary Plan. This Subdivision is located in Painesville Township. The Developer is Western Reserve CDC, and the Engineer is Barrington Consulting Group. There is only one additional subplot being proposed in Phase 5 since the 2000 Preliminary Plan. Phase 4 is composed of 9.687 acres with no sublots and 9.4 acres of open space, which accounts for 97 percent of that Phase. Phase 5 is 4.1 acres with one proposed subplot and 3.7 acres of open space. All phases combined are 25.03 acres with 47 sublots and 13.11 acres of open space, which accounts for 52 percent of the entire Subdivision.

Ms. Jordan said the Subdivision can be accessed through Kenilworth Avenue. The site is zoned as PUD. To the north, south, east and west there is single-family zoning.

Staff's recommendation is to approve the Lake Terrace Estates revised Preliminary Plan with the following stipulations and comments:

**Preliminary Plan Stipulations:**

1. The location of the subdivision by lot, tract, and county, is not provided on the Preliminary Plan.  
*Article III, Section 3(D)(1)(b)*
2. Location, widths, and names of existing or platter streets, railroad rights-of-way, easements, parks, permanent buildings, corporation lines, lot, tract, township, county and state, and metes and bounds of property lines shall be included on the Preliminary Plan. A lot line within close



proximity to the western boundary of the subdivision is missing and needs to be shown. *Article III, Section 3(D)(1)(f)*

3. When lots are located on curves or when side lot lines are at angles other than ninety (90) degrees, the width at the building line shall be shown. *Article III, Section 3(D)(1)(n)*
4. School districts shall be shown on the Preliminary Plan. *Article III, Section 3(D)(1)(t)*
5. The following shall be shown: "type of water supply and wastewater disposal proposed, approximate locations and dimensions of all proposed utilities and sewer lines, easements, drainage tiles, water mains, culverts, or other underground utilities within the tract or adjacent thereto". 15' utility easements are not indicated on the Preliminary Plan. Additionally, it is not indicated how Sublot 47 will hook into existing utilities. *Article III, Section 3(D)(1)(u)*
6. Proposed and existing fire hydrants must be shown on the Preliminary Plan. *Article III, Section 3(D)(1)(w)*
7. Plans are subject to additional review by the Lake County Engineer.

**Preliminary Plan Comments:**

1. Phases 4 & 5, as submitted, have been approved as a substantial modification to a Preliminary Development Plan by Trustee Resolution # 2016-76 on June 15, 2016, effective July 15, 2016.  
*Painesville Township Trustees*

**Design Stipulations:**

1. "... shall be provided at the closed end with a turn-around having an outside pavement diameter of at least one hundred (100) feet and a right-of-way line of at least one hundred ten (110) feet..."  
The proposed cul-de-sac on Lake Terrace Drive has a 90' diameter. *Article III, Section 3(B)(10)*
2. Plans are subject to additional review by the Lake County Engineer.

**Design Comments:**

1. There is concern regarding the proximity of Sublot 47 to the identified wetland. *LCSWCD*

**Technical Stipulations:**

1. Until plats and plans for the subdivision are approved, properly endorsed and recorded, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Article I, Section 4(B)*
2. A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District. *Article IV, Section 3(E), Article IV, Section 3(F), Article V, Section 4(A), Article V, Section 4(B), Article V, Section 4(C)*
3. An ESC Plan is required. *LCSWCD*
4. SWPPP/MPDES may be required if disturbance exceeds 1.0 acres. *LCSWCD*

5. A copy of the wetland delineation and/or affirmation from the U.S. Army Corps of Engineers is required. *LCSWCD*
6. Plans are subject to additional review by the Lake County Engineer.

**Technical Comments:**

1. How and where will Sublot 47 connect to utilities? This must be determined prior to submittal of the Final Plat and Improvement Plans. *LCPCD*

Ms. Jordan stated that the following shall be shown: "type of water supply and wastewater disposal proposed, approximate locations and dimensions of all proposed utilities and sewer lines, easements, drainage tiles, water mains, culverts, or other underground utilities within the tract or adjacent thereto." Fifteen-foot utility easements are not indicated on the Preliminary Plan. Additionally, it is not indicated how Sublot 47 will hook into existing utilities. All rights-of-way provided for public service and utilities, and the limitations of such rights-of-way shall be shown on the Preliminary Plan. Utility easements shall be shown. Additional easements will need to be extended to allow the cul-de-sac to be temporary.

Ms. Jordan stated that staff recommends approval of the Lake Terrace Estates revised Preliminary Plan.

Ms. Pesec inquired about labeling the cul-de-sac as "temporary" in Phase 5.

Ms. Jordan said there was a Final Plat being filed for Phase 4, and not Phase 5, which includes that one subplot. This cul-de-sac is remaining temporary until the Final Plat is filed.

Mr. Zondag asked about the utility easement, and Ms. Jordan stated it was just a typical 15-foot utility easement that is required by the Subdivision Regulations.

Mr. David Novak of Barrington Consulting at 9114 Tyler Road in Mentor commented on the 15-foot utility easement. He stated that though it is normal, in this instance, it cannot happen. It does not need to happen here, especially in Phase 4, because there are no lots. On the Plat, there is already an underground easement because Beach Park was to be extended. No new underground utility lines will be installed, because it loops over to the street to the east. They do not really want to dig that area up because it is all wetlands. Both the Beachfront Drive and Lake Terrace Drive cul-de-sacs currently are temporary and were not constructed as permanent cul-de-sacs. Part of what is being done is to bring those cul-de-sacs up to the correct standards and dedicate those areas as public rights-of-way.

Mr. Valentic was concerned that Mr. Novak would need the utility easement for the only subplot in Phase 5, and Mr. Novak said that he did not believe they would need it. There is an electrical box and an OBT pedestal there. If they needed to, they would extend across that subplot, but would not be going all the way around the cul-de-sac because they had a request in for the cul-de-sac diameter to be reduced because of the wetlands. Painesville Township has given them their approval or recommendation for the reduced cul-de-sac diameter.

Mr. Radachy stated that the variance would be discussed next.

Mr. Novak, Barrington Consulting Group in Mentor, stated that since they needed to have an underground utility easement for the one lot, it would be provided. They were not extending sanitary, storm sewers or water for this project. They were taking a cul-de-sac designed to be temporary and bringing it up to today's Lake County Subdivision Regulations.

Mr. Zondag asked if the roads were paved and was told they were.

Mr. Novak said they were originally pursuing eight or nine sublots.

Mr. Radachy noted that Western Reserve Community Development Corp applied to the Lake County Community Development Block Grant program for funds to build Beachfront Drive as a permanent cul-de-sac. They were granted funding last year and the program requires that they build it by the end of August. This is in a target area of low to moderate income homeowners. As an affordable housing subdivision, it qualified for CDBG funds.

Ms. Pesec asked if the staff approved the Block Grant and Mr. Radachy informed her that the County Commissioners approve the grant awards. Staff only offers recommendations for the project selection process.

Mr. Graham moved to accept the staff's recommendation and approve the revised Preliminary Plan for Lake Terrace Estates in Painesville Township, and Mr. Zondag seconded the motion.

All voted "Aye".  
Motion passed.

#### Painesville Township - Lake Terrace Estates, Variance to Article IV, Section 3(B)(9)

Ms. Jordan introduced this case as being a variance request to Article VI, Section 3(B)(9) of the Lake Terrace Estates revised Preliminary Plan in Painesville Township. The Developer is Western Reserve Community Development Corp., and the Engineer is Barrington Consulting Group. A variance is being requested so that the cul-de-sac can be constructed with a 90-foot diameter, as opposed to 100-foot diameter. The reason is because of the wetlands located on the property. If this is not approved, they will be impacting the wetlands, so there is a physical hardship.

Ms. Jordan read that Article IV, Section 3(B)(9) states that a permanent cul-de-sac shall have an outside pavement diameter of at least one-hundred (100) feet. At the proposed cul-de-sac on Lake Terrace Drive, a variance has been requested to have an outside pavement diameter of ninety (90) feet. During the planning for this project, it was discovered that there are extensive wetland areas extending all the way to the easement for the temporary cul-de-sac, which will be converted to a permanent cul-de-sac in this project. In order to have adequate room for grading, and to not impact any of these wetlands, the applicant requests the cul-de-sac pavement to be constructed to 90 feet in diameter. This will allow room for grading and construction within the right-of-way so the project can be completed without any wetland impacts. It was noted that only one house will have access from this reduced cul-de-sac.

Below are the review agencies comments.

## REVIEW AGENCIES COMMENTS:

- 1) At this time, we have no concerns regarding the reduction in the size of the proposed cul-de-sac at 90'. *Painesville Township Fire Chief*
- 2) Phases 4 & 5, as submitted, have been approved as a substantial modification to a Preliminary Development Plan by Trustee Resolution # 2016-76 on June 15, 2016, effective July 15, 2016. *Painesville Township Trustees*

Ms. Jordan stated that this Plan has been approved by Painesville Township Trustees and that staff recommends approving the variance request on Article 4, Section 3(B)(9).

Mr. Morse asked if the County Engineer's office sent a response and was told they had submitted that there was no comment.

Mr. Brotzman asked if there was a wetland setback on this project and was told there was not.

Ms. Pesec asked if the Township had setback regulations and was told they do not. Mr. Radachy said this needed to be pursued through the County Subdivision Regulations. The area that this will be affecting is already disturbed with the temporary cul-de-sac. With the smaller cul-de-sac, there is a way to pursue a setback. Staff will have to do a field check on this.

Ms. Jordan said this variance would allow them to avoid grading in the wetlands. Currently, there is pavement there. This is already a temporary cul-de-sac and it is going to be reconstructed as a permanent cul-de-sac with a reduced diameter. It will be brought up to the County Standards and be dedicated to the Township.

Mr. Graham moved to approve the variance to Article IV, Section 3(B)(9) on this cul-de-sac per the staff's recommendations, and Mr. Siegel seconded the motion.

All voted "Aye".

## Painesville Township - Lake Terrace Estates, Phase 4, Final Plat and Improvement Plans, 1Block, 9.689 Acres

Ms. Jordan introduced this Subdivision as Lake Terrace Estates, Phase 4, Final Plat and Improvement Plans. There are no sublots for this Phase. Phase 4 is on Beachfront Drive in Painesville Township.

## FINAL PLAT STIPULATIONS

- 8) All subdivision final plats shall be referenced to Ohio State Plane Coordinates, 1983 Horizontal NAD, and 1988 NAVD for vertical control. A minimum of two (2) points shall be tied to OSPC. *Article III, Section 6(C)(5)*
  - a. Add State Plane Coordinates. *Lake County Engineer*
- 9) A statement or table showing total acreage in the subdivision and total acreage used for sublots, roads, open space, easements and other types of uses, shall be provided. The acreage of easements is not included in the table provided. *Article III, Section 6(D)(2)*

- 10) All right(s)-of-way provided for public services or utilities, and limitations of such right(s)-of-way shall be shown on the Final Plat. Utility easements shall be shown. The Final Plat does not include utility easements around the proposed cul-de-sac. *Article III, Section 6(D)(3)(e)*
- 11) Label the Lake Terrace Drive cul-de-sac as “temporary”.
- 12) Plans are subject to additional review by the Lake County Engineer.

## **IMPROVEMENT PLAN STIPULATIONS**

- 11) Until plans for the Subdivision are approved, properly endorsed and recorded, no improvements, such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Article I, Sec 4(B)*
- 12) A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District. *Article IV, Section 3(E); Article IV, Section 3(F); Article V, Section 4(A); Article V, Section 4(B); Article V, Section 4(C)*
- 13) SWPPP Plan revisions are required, including limits of disturbance, temporary stockpile locations, and staging area location. *LCSWCD*
- 14) Include detail for manhole casting lowering. *Lake County Sanitary Engineer*
- 15) Include inspection requirements while working on the sanitary sewer manholes and adjust water valve boxes. *Lake County Sanitary Engineer*
- 16) Plans are subject to additional review by the Lake County Engineer.

Ms. Jordan had the members focus on the stipulation that all right(s)-of-way provided for public services or utilities shall be shown on the Final Plat and the Lake Terrace Drive cul-de-sac should be labeled as temporary.

Staff recommended approval with five Final Plat stipulations and six Improvement Plan stipulations.

Mr. Brotzman was concerned with the long, skinny easement that extended toward the Lake. Ms. Jordan said it was for a storm main.

Mr. Brotzman asked if it spilled out at the end and Mr. Radachy believed it did.

Mr. Novak of Barrington Consulting Group said there was a manhole at the top of the bluff and they bored down to the beach and inserted a pipe. The storm outlet that goes into the Lake is for the entire Subdivision.

Mr. Siegel moved to approve the Final Plat with five stipulations and the Improvement Plan with six stipulations and Mr. Zondag seconded the motion.

All voted "Aye".

Motion passed.

Madison Township – Lot Split Variance Request, Madison Country Club, PPN 01-B-119-0-00-008-0, Article III, Section 10 (B) (1)

Ms. Jordan introduced the Lot Split Variance Request in Madison Township. The Applicant for this lot split is Rollin Cooke III of Atwell and the Engineer is Barrington Consulting Group. A variance is being requested for Article III, Section 10(B)(1), which is a proposed division of land with frontage along an existing improved public street and involves no opening, widening or extension of any street, road or public utility. The end of the right-of-way width meant for future extension does not constitute frontage along the existing improved public street. None of the improvements described in Article V shall be required.

The Applicant provided the following as evidence for granting the variance below:

"A variance is respectfully requested from the above-reference article, section and subsection in order to apply for a minor subdivision and allow a lot split of the subject parcel 01-B-119-0-00-008-0, 239.8341 ac., to create the remainder parcels (Parcel A – 159.1458 ac., Parcel C – 0.6989, and Parcel D – 79.9894 ac.).

The end of Chimney Ridge Drive's (80' R.O.W.) cul-de-sac is located approximately ten (10') feet from the property line, with a ten (10') foot extension of the right-of-way to the property line. This situation results in a stub road with the expectation that the road would be extended. It is our understanding that in order to ensure that this road can be extended, the Lake County Subdivision Regulations do not recognize the width of the right-of-way as frontage.

Granting of this variance will facilitate our application for a minor subdivision and allow a lot split of the subject parcel as depicted on the Variance Exhibit dated 5/12/2016. It is our intention to sell Parcels A and C and retain Parcel D for future consideration.

As a side note, Madison Township, in which this property is located, requires 60' of frontage at the end of a public cul-de-sac street for the adjacent parcel to be considered a developable parcel. Chimney Ridge is a publicly dedicated cul-de-sac. The subject parcel, 01-B-119-0-00-008-0, has 80' of frontage along the cul-de-sac and is therefore considered buildable by the township."

Mr. Brotzman wanted to know if the road was paved to the property line and was informed that it was.

Ms. Jordan said the property owner currently has access to Parcel D from the stub street so they have had access through Chimney Ridge Drive since the time they have owned this parcel. Definitions between the cul-de-sac in its permanent state and a temporary cul-de-sac are as follows:

- Permanent Cul-de-sac: A minor street, one end of which connects with another street and the other end of which terminates in a vehicular turnaround. The construction of

the street shall conform to rules, regulations, and standard specifications for road improvements in accordance with O.R.C. 711.101, these regulations and applicable zoning resolutions.

- Temporary Cul-de-sac: A minor street, one end of which connects with another street and the other end of which terminates in a vehicular turnaround. This type of street has the ability to be extended and the cul-de-sac removed when future development occurs. The construction of the street shall conform to rules, regulations, and standard specifications for road improvements in accordance with O.R.C. 711.101, these regulations and applicable zoning resolutions.

Ms. Jordan said future development may occur on this parcel and will allow the right-of-way to extend. The end of Chimney Ridge Drive is 80 feet. The stub at the end of the turnaround is 80 feet and the minimum width of stubs is 60 feet. The turnaround actually exceeds the minimum width required of a stub street.

Staff recommends approving the variance request to Article III, Section 10(B)(1).

Mr. Siegel was concerned about how many lots were proposed for Chimney Ridge Drive.

Ms. Jordan stated that this was a lot split request and there were no proposed plans submitted showing what was proposed to be done with the split parcels.

Mr. Walker asked if there was any access from the south and was told there was no access shown from the south.

Mr. Brotzman said it appeared as if we were looking to approve a variance for this particular cul-de-sac in Parcel D as well as the applicant's intent to subdivide the entire 239 acres into four parcels.

Ms. Jordan said we are only focusing on the variance request that would allow them to use the stub as frontage.

Mr. Radachy stated that, of the four parcels mentioned, three of the potential lost splits could be approved administratively by staff without any issues. The fourth, Parcel D, is the one that requires a variance.

Mr. Brotzman stated that if this variance was approved then they could make an application to the Planning Commission and staff to review it and Mr. Radachy answered in the affirmative.

Ms. Pesec clarified that Parcels A and C could be approved administratively and asked for the regulations allowing this to be done administratively.

Mr. Radachy explained that ORC 711.131 and ORC 711.133 allows the Commission to split the lots administratively. These have been in the ORC Regulations since 1957. The applicants just need to submit applications, a deed and legal description and provide a survey. Parcel A and C have frontage along Chapel and Green Roads. Parcel D's only frontage is on Chimney Ridge Drive.

Mr. Jeff Markley, a Landscape Architect and Planner for Atwell, represented the property owner, Mr. Cooke, and was asked if he had a statement to present at this time. He answered in the negative, but offered to answer any questions the Board may have. The Chair said the Commission would call on him if needed.

Mr. Radachy said staff received many comments. He asked to have the Chair ask for a vote to add the comments into the record included in the packets for this evening.

*Amy Shenkel-Kurtz:* I am opposed to the division requested for many reasons:

(1) Chimney Ridge is a one way street and is not made to handle an excessive amount of traffic. Making it a through street will greatly increase the traffic and very quickly take a toll on the road. (Not to mention the construction vehicle weight and again it is a one way road. How are they not going to block homeowners' driveways?)

(2) I mean no disrespect, but the man in question doesn't even live in Lake County and has no stake in Madison at all. His apathy can be witnessed by the way he handled the fire on his property. He has not even cleaned up the property where the club house was. It is an eye sore over grown with weeds, etc. It seems that he takes no pride in his ownership, and the Madison residents have to deal with it. I shudder to think what he will do to the area that has been referred to as "the crown jewel of Madison" (Chimney Ridge) and subsequently what will happen to the property value of these houses.

(3) As there are no sidewalks, safety is also a concern. The street is home to many small children. As it is right now, we all observe the speed limit because we all have a vested interest as we all live on the street. My family and I moved to Chimney Ridge 10 years ago from Mentor. Please consider those of us that are already living in and positively contributing to this wonderful city, and more specifically, this wonderful neighborhood.

*Pat Roberts, 6357 Meandering Wood Ave, Madison:* She was not notified of this hearing – who is representing the residents of Chimney Ridge development. That area is wetlands – isn't that an issue. Safety is my primary concern – where do we walk or bike once the traffic increases – lots of blind spots and an issue sometimes now. Traffic – don't think this road can handle more. It could become a short cut to Red Bird schools. Road conditions – they aren't great in some spots now and that can only get worse. Property values – how will this affect the values of the houses in this development. Please seriously review these issues before making a decision that would negatively affect the current residents.

*Nita Collins, 2037 Chimney Ridge Drive, Madison:* She is completely against the request Mr. Rollin Cooke has made for the Chimney Ridge Drive. Hopefully this can be stopped as it will create a lot of traffic on a quiet street.

*Shirley Livingston:* She and her husband, Wayne H. Livingston have been homeowners and residents of Chimney Ridge Dr. since 2008. They had some concerns about the proposal for a variance at the end of Chimney Ridge Drive's cul-de-sac by Mr. Rollin Cooke III, which will come before the Planning Commission on Tuesday, June 28.

Ms. Livingston respectfully requested a clarification of the terms "permanent cul-de-sac" and a "stub road" and, specifically, how the same area can be defined with two seemingly different terms in her email. They first heard the term "permanent cul-de-sac" from Mr. Pasqualone, Attorney for the Madison Township Trustees & for the Zoning Board on June 9, 2016, at the brief BZA meeting for Madison Township when the BZA had a request from Mr. Cooke to reduce



the current 100' minimum frontage requirement to 80' in order to put a road through our cul-de-sac adjacent to his property. It was determined that the request from Mr. Cooke should be referred to the County Zoning Board. The Board & Mr. Pasqualone kindly remained and answered questions from the approximate 50 residents of Chimney Ridge Dr. who attended the meeting that evening. They discussed the fact that there are no longer streets with an island in the middle that are planted and maintained by the homeowners. She stated that her husband believes these are called boulevard streets and are unique in the community, therefore keeping property values up.

The term "stub road" came onto our radar in the document from Mr. Cooke's Lot Split Variance Request, dated 3/18/2016, in the second paragraph. We do not find either term used in our Warranty Deed 663977, Vol. 863, Pages 937-943, dated Aug. 1979, filed by B.S., Inc. Mr. Arthur D. Sidley was President of that Company at that time.

*Arthur C. Stafford, 2193 Chimney Ridge Drive, Madison:* I have been a homeowner since 1991. As one of the most senior residents on this street, I am very familiar with the history of the subdivision. Chimney Ridge Drive subdivision was created in 1979 in conjunction with the Madison Country Club. Mr. Arthur D. Sidley, a member of the Club, envisioned a tree-lined divided boulevard with 48 home sites, each approximately one half acre, for upscale homes. The boulevard would have a median strip its entire length. When my wife and I moved into Chimney Ridge, most residents *were* members, and we joined the club in 1992. Since the Country Club owned the land at the end of Chimney Ridge, the plan was to build an additional 9-hole golf course on the 79 acres, together with a new Clubhouse for the Country Club. Thus, at the end of Chimney Ridge Drive would be a new entrance to Madison Country Club, with a new clubhouse.

Chimney Ridge Drive, therefore, was constructed as if it were a semi-private drive. Each roadway on either side of the median strip is only 10-12 feet wide. The concrete road bed was built for private automobiles. Although the golf course and new clubhouse were never built, Chimney Ridge Drive remains as it was originally intended. It was not built to be a thoroughfare, or an access road to another subdivision. Even today, school buses and garbage trucks can barely get through. In winter, snowplows have a very difficult time maneuvering the turnarounds between the median strip. Personally, the Township has had to replace sprinkler heads and lawn on the frontage of my house because of snowplow damage. Emergency vehicles can barely get through, either. The roadway itself is heavily cracked and crumbling from the usage it gets now. I invite each of you to take the time to drive down our street, and am convinced that you will conclude that Chimney Ridge Drive cannot handle any additional traffic.

Now that Mr. Rollin Cooke has taken possession of Madison Country Club, it is our understanding that he intends to split those 70 acres apart from the golf course. If successful, the only access he will have to that land is through the variance on Chimney Ridge Drive. For safety reasons, and for logistical reasons, this access is not practical. If Mr. Cooke intends to develop this land at some future time, he will have to find another access. Chimney Ridge Drive is not the answer.

*Taylir Linden-Washlock, Chimney Ridge Drive, Madison Township:* She has lived there for over ten (10) years. Her sister, Trista Linden Warren, and her husband, Michael Warren, live on this street as well. Since they have moved here other families also with children have moved in as

well. They all moved there, or have stayed there, because the street is a quiet, family-oriented in-and-out "Community" street where we can allow our children to play and know that it is safe.

The community (members of Chimney Ridge and Meandering Woods) take great efforts to maintain the quality of the homes and yards as well as the medians, sometimes using their own resources. They make appropriate arrangements with neighbors when the road might be blocked for a particular reason as the street is only one lane in, around and out. Please consider this letter an expression of my strenuous opposition to the variance requested by Rollin Cooke. She was notified that he is requesting a minor subdivision and to allow a lot split of the subject parcel 01-B-119-0-00-008-0, to create remainder parcels. This variance request is to be heard at the Lake County Planning Commissions meeting this evening (June 28, 2016). Had she known about this request sooner, she certainly would have voiced by objections sooner.

While she can certainly understand Mr. Cooke's desire to make money, as has been his plan in Geauga and Lake Counties for years, it should not be at the expense of those individuals who have built a long-standing foundation in the Chimney Ridge Community and who were here long before Rollin Cooke. Quite frankly, it is not as if there is a burning need for Mr. Cooke to develop the land into housing as there do not seem to be large numbers of people rushing to live in Madison. If fact, much of the development that was started in other areas of Madison, has remained undeveloped (such as the property adjacent to the East End YMCA). Should he wish to sell the land to a developer for profit, he should not be granted this variance to do so.

Mr. Cooke has several other avenues in which he can accomplish his goals, including the use of his OWN property access through Chapel and Green Roads. Despite that fact, he has chosen to disrupt the small quiet community of Chimney Ridge/Meandering Woods. Our small road in and out is not equipped to handle extensive traffic, heavy equipment, cement trucks and so forth. It is not equipped to handle builders. We barely have enough room to have garbage trucks in and out of the community without damages to the road.

She could speak for everyone in Chimney Ridge and Meandering Woods when she says that we oppose the variance. Our housing community has met and discussed our opposition and will certainly continue to do all that we can to block the variance and any additional street extension or building that disrupts our quality of life and the reason that we purchased our homes. She hopes that you will take this letter in opposition to heart, along with the others that she is sure that you will receive, before making any determination and denying the variance."

*Patricia Northcott:* "This is to state that I am against him using Chimney Ridge Drive as an entrance & exit for his land locked parcel that he wants to separate from the golf course. The property will be land locked except for the 80 feet that is at the end of Chimney Ridge.

There was a meeting called to order by the Chairman of the Board of Zoning Appeals & roll call taken. Then Mr. Gary Pasqualone, Madison Township's Attorney, stated that there was no need for the meeting as Mr. Cook's request was for a driveway not a street. Then the meeting was closed after which the people who attended were able to ask questions and voice their concerns. The only way Mr. Cooke can exit this parcel is thru the golf course or Chimney Ridge Rd.

Ms. Pesec moved to incorporate the comments into the minutes and Mr. Walker seconded the motion.

All voted "Aye".

Ms. Pesec asked for the general theme of the comments to be introduced.

Mr. Radachy said the theme is that there is concern that the 79 acres are going to be subdivided into a large subdivision with increased traffic. Also, that Chimney Ridge Road was designed as a boulevard road with islands in the middle and the pavement widths that are 11 or 12 feet wide making it very difficult to maneuver up and down the road. There are safety concerns about what happens if the property to the south is sold to a developer.

Mr. Walker also added to the common theme that there were no sidewalks.

Mr. Brotzman said the configuration of the road is meant to be driven slowly and was concerned whether or not the road was built to the standard to hold more traffic.

Mr. Radachy said the road would not concern us because it was on an off-site property and the Township has to maintain all Township roads. He stated that the "Dream House" in Concord Township currently has a sign that says "no construction traffic at this point" because the Township just recently resurfaced Cali Drive and did not want it torn up. They are trying to detour construction traffic to another road off the main road. This shows a way in which this could be handled. If this were to be subdivided, there are additional spots along the piece of property also on subdivided land to the north and west. Temporary cul-de-sacs would be required to ensure there is proper access all the way around. It does not help in this case if it were developed because the only access is Chimney Ridge unless they were able to get an easement from the golf course or the Slovenes.

Mr. Markley of Atwell spoke on what he thought the applicant had in mind. The Applicant is currently marketing the golf course for sale and wants to split that piece off to be able to sell a trust deed for the 1.69 acre home with frontage on Chapel Road. The primary plan is to sell off that 1.69 acre lot and the golf course. He believes it is up for auction right now. The 79 acres is for future consideration. We were all at the Madison Township meeting when we thought there was a BZA variance request there and there was a lot of discussion after the fact about wetlands, construction of the road, traffic, etc. There would be a long road to hoe if there were to be a subdivision planned for the 79 acre site. But the idea is to sell the golf course property off right now.

Mr. Brotzman asked if the golf course currently went into the parcel being discussed right now and was told by Mr. Markley that it did not. It was Mr. Markley's understanding that this land was split before. The 79 acres was separated into two or three parcels before. He believed Mr. Cooke consolidated them. Now he would like to split it off again to sell the golf course.

Mr. Brotzman asked if the Township would have the authority to try to bond the maintenance of Chimney Ridge. Mr. Radachy stated that he could not speak as to whether that would be legal. Is it a fair question to ask, if such a project were to have an adverse affect on

the street, could that adverse impact have the ability to stop the development? Mr. Radachy stated "no".

Mr. Zondag stated, if he owned the property and wanted to split it off, other than this variance request on frontage, is there anything else legal that could stop him?

Mr. Radachy stated that if Mr. Cooke owned one of the sublots on Chimney Ridge and he attached the 79 acres to it, there would not even be a need for the variance because he would have a 100-foot frontage. Or, if he decided to put a 100-foot sloth along the back of the sublots all the way to Green Road or around Meadowood, it could also be split that way.

Mr. Ivantic requested the zoning for Parcel D and was told it was R-1.

Mr. Siegel asked how big the Chimney Ridge lots were.

Ms. Linda Cimperman, residing at 2238 Chimney Ridge Drive, spoke on this topic. She stated there were 48 parcels built by Arthur Sidley. The parcels were approximately 100 feet by 200 feet. There were some people who owned multiple lots and a lot that is non-buildable because it has a gas line under it. There are several people who have already had serious problems with water when there is actually a running brook through the area.

Mr. Radachy stated the R-1 zoning allows for the same sized lots. The residents said they had sanitary and Mr. Radachy said it would be up to the Sanitary Engineer to determine if the sanitary was deep enough to service potential lots, which would be a subdivision question.

The meeting was opened to public comment.

Ms. Shirley Livingston, 2032 Chimney Ridge Drive, Madison, Ohio, stated that the office should have received something from Mr. Gauntner. That item was acknowledged.

Mr. Radachy explained that the comments from the Township were automatically entered into the minutes, but the comments from the homeowners had to be added because they were written comments.

Ms. Livingston said the road was not in pristine condition. The homeowners have gotten together to try to get one garbage service because they are concerned about garbage trucks on the road. She could not fathom what it would be like to have building materials going down the road. She is also seriously concerned about Chimney Ridge being the only ingress/egress for additional homes because it is already a burden for the houses there.

The Chair stated the Commission was not discussing a proposed subdivision at this time. All the Commission is talking about is the piece of property being split.

Ms. Livingston asked to speak to Mr. Markley about the property and asked if the Army Corps of Engineers had done a study on the subject property.

Mr. Markley said they would not do a study. It is actually done by a consultant once the plans are in preliminary phases. An expert would come out and do a delineation and then the

Corps would be invited out at some point to verify that delineation. He did not believe a study was done.

Ms. Livingston said she was confused because on June 3 she spoke with Mr. Joe Luchek of the Ohio EPA in Twinsburg and was told that normally the Army Corps of Engineers would do a study prior to granting a variance.

Mr. Radachy stated that the Subdivision Regulations require a wetlands delineation to be submitted with the Preliminary Plan. At that point, the property owner would hire a consultant to do a review of the site to determine the presence of wetlands. This was initially what happened to Lake Terrace Estates which lost 15 lots because they did not want to mitigate the wetlands.

Ms. Linda Cimperman of 2238 Chimney Ridge is on the fifth green of the Country Club, which she showed the members on a map. As the board showed, the property was on the national registry of wetlands. She could validate the fact that it was terribly wet back there. When it rains, it floods and water lays there. It is five feet away from the very last house on the street. There are real concerns on health as well as safety issues. It was difficult for her to understand that the property owner would split this off from the golf course because it was originally intended to be a nine hole golf course on the new site or the clubhouse, but the plans fell through. Everyone in the entire area is concerned about the traffic flow because, if this was developed into anything with no other outlet, it would become problematic. This would become catastrophic because at 7:00 to 8:00 a.m. the traffic flow going down Hubbard or Green to pick up Route 20 has congestion with a wait at the stop sign. There are other avenues he could take if he chooses to develop it. We are not against Mr. Cooke developing his land. Our street is in terrible condition now and it is hard to believe that it would withstand anything more. We have a lot of young children and it could become very hazardous. Another issue of concern is a Perry Nuclear Plant disaster. How is anyone going to get out of there? They are at 25 miles per hour now and, when they had a couple incidents where the fire truck had to go down the street, they had a very difficult time because they have to go around the inlets. They are a boulevard and are special. She could not understand why they would not want to save a special street. There are only about three of these boulevards in the immediate areas. She respectfully requested that all involved try to work together and find another solution rather than coming down Chimney Ridge. She had a petition that Madison Township would not accept that was signed by everyone on the street. They are adamantly against it. She asked to enter it into our records and it was accepted. She asked if the members had any questions.

Ms. Pesec stated that currently they were looking at just the lot split with the variance for the cul-de-sac. She asked if there was any information that could be provided to give us reason why we should not approve the lot split; not with the traffic or homes, etc. that we should not grant the variance.

Ms. Taylir Linden-Washlock at 2210 Chimney Ridge Drive had submitted a letter to the office. The reality of this situation is that the only way to get into Parcel D if those two lots are split and the variance is granted is through Chimney Ridge. Everyone says that is not why we are here, but she said it truly was. If the variance was granted, there would be two parcels that are split off and she would find it very hard to believe that someone would say that they are not going to develop the Parcel D. It is not before you yet, but we all know that is what is going to happen and that is why we are opposing the variance. We know if the variance is

granted, that is something that will happen. There are legitimate concerns about the street. It is just an in and out type of road. The road has been there for 40 years. Mr. Gauntner has indicated to the members through his comments that he does not feel that is an appropriate way to go in and out for traffic or for an extra lot being built back there. We have been told several times by a number of individuals that this was a done deal and they will be building a number of homes back there. That is where all our concerns come in. The golf course is a majority of our back yards. She was off the fifth golf hole also. We all have kids. The kids run and play on the street. We spend a lot of time and take pride on what we have done with our lot because the Township does not do anything to help us. From our prospective, when we look at the lot split and variance, we know exactly what is coming. That is not something that we want to see happen. It may sound like we are putting the cart before the horse, but we kind of have to. We do not feel there is any legitimate reason for them to split this off at this point and time. We are asking for the variance not to be granted. There is really not any other way to get into that property if it is split.

Ms. Linda Cimperman added that she was told by the president of the past golf club association that in the 70's when they had the other plans to develop the nine holes, they had five different developers walk the land to develop the land and each one of the five said no way and walked away from the property because of the wetlands.

Mr. Radachy said there were a couple ways they could split this property without going down Chimney Ridge by slothing the road or dividing a one-lot subdivision with the extension of the road and building a 100-foot section onto the end of the road and split the lot that way, although it would be more expensive. Then they would submit improvement plans with a road and a plat.

Mr. Zondag was concerned that the property owner had access to Parcel D now. If this variance was denied, there would still be access to Parcel D.

Mr. Radachy stated that this is still a public right-of-way. The right-of-way dead ends at Parcel D. They could cut some trees down, throw some gravel in and enter the property with a truck. They could legally park on the cul-de-sac and walk into the property on that site and access their land through Chimney Ridge.

Mr. Valentic stated their frontage is 80 feet and what they need is 100 feet.

Mr. Radachy explained that they need a 60-foot frontage, which requires a variance. The Subdivision Regulations state that you cannot use the bottom of the stub as frontage without a variance from the Planning Commission. That road is designed to be extended. We want to ensure that our rules and regulations are followed for a proper subdivision of land and proper extension of roads. We need to make a determination on the lot split and if the 79 acres would deviate us from the Regulations. Staff's opinion is "no". They have plenty of space to put a house on 79 acres of land if they chose.

Mr. Brotzman stated that he could not sell this lot as a land-locked parcel because he lacks adequate frontage.

Mr. Radachy stated that in order to sell the golf course, he has to sell the golf course and the acreage.

Mr. Brotzman stated the property owner could state that he wanted to build a driveway off the stub and build a house that would be acceptable.

Mr. Markley wanted to emphasize a couple points. One was the idea that the road was meant to be extended at some point. Atwell is not involved in this so we do not have a plan to show anybody. He was also told as was the Madison Trustees and Law Director that from the clients prospective, the property owner does not have an interest in developing this any time in the future. He just wants to get rid of the golf course is Mr. Markley's understanding. To the one neighbor's point of why you would want to split it off if you were not going to develop it. It is a good point. Ultimately, Mr. Markley feels that might ultimately be the end game, if not to submit a preliminary plan but to sell that parcel off for someone else to take a shot at developing it. At the end of the day, there are so many hoops to jump through on the 79 acre parcel. It would be far easier to develop the golf course into housing than it would be the 79 acre parcel because of the wetlands. It was also his understanding that the golf course did that purchase so that they could expand that golf course to 18 holes. Obviously, there were some challenges with that as well. This is largely about having the ability to sell off the golf course and less about the development of this site. It potentially could be a developers' site once it is split off. The Township is very much concerned about other points of ingress and egress and he thought this group had the same concern, so a good development plan will show another way of access. He stated that he was a council trustee in another county south of here. He stated Parcel C is the .69 acre property with the small house is intended to be sold right away. Parcel A is the golf course itself. One individual is very interested in redeveloping the golf course into a housing development.

Mr. Zondag said that if Parcel A is developed, there is a road with a potential to tie into Parcel D in the future. Mr. Atwell said there were many access possibilities from the golf course. Mr. Radachy said there also was potential for future access from Green Road.

*Ms. Marissa Guzzo, 2226 Chimney Ridge Drive, Madison:* She, her husband and their four and five year olds moved in literally a month ago. One of the main reasons they moved there was because it was such a quiet street. There are many children on the street. What concerns them is that if construction was to occur, that would decrease the safety of the street. If there are 79 acres and it were divided into 25 acres that would be 160 houses, which means 320 cars coming down that road. The road cannot handle it and it also decreases the safety of the children. They are very concerned.

*Mr. Frank Krnach, 6121 Meadowood Drive, Madison:* Mr. Krnach said it seemed obvious to him that he is trying to split it up for his own financial benefit. He owns the golf course and the small piece of property that the home is on, and the 79 acres that is not developed. He did not know why this property could not be split in other ways. There could be a road put in along part of the golf course from Green to that property or there is an easement from Chapel back to where the power lines are that he thought this could be used to develop that road, but he would have to pay to put in sewers and other expenses. It seems that he is trying to develop it for his own best financial reasons and no concern for the residents.

Mr. Radachy stated that in Article VI, Section 5 on variances, the County Planning Commission finds extraordinary and unnecessary hardship as a result of restricting these plans of these regulations due to the exceptional topography or other physical condition and may vary

the regulation. So, it is believed that such relief may be granted without impairing the intent and purpose of these regulations for a desirable building development in a neighboring community. Such variation shall not have the effect of nullifying the intent, the purpose of these regulations, comprehensive plan or zoning resolution.

Ms. Pesec asked what the extraordinary or unnecessary hardship is and Mr. Radachy said that would be for the developer or property owner to state. What wording was used on the application to determine the Commission should give approval to this?

Mr. Radachy said they did not specify a physical condition or a topographical condition for granting the variance. The extraordinary hardship would be having to survey land back to Green or Chapel Roads and to attach it to this property unless that land goes to the golf course, which would be a detriment to the golf course. You could go around the edge, but it would need a 100-foot sloth of land back to Chapel or Green Roads.

Ms. Pesec asked if it would all have to be paved and Mr. Radachy said he would not have to pave it at all, but he would be required to do a survey and send a survey crew out to pin the ground to locate it. If he sells the golf course, he retains that portion of the golf course for his deeds for access to the property when he sells the 79 acres with the golf course. That owner now has the right to go through the access to Chapel Road and it could be a detriment on the golf course because it could go through the fifth hole.

Mr. Graham questioned, if the lot split were to occur, your concerns are valid, and a preliminary plan is submitted, the Township would have authority to deny that plan. Mr. Radachy stated the Township has no authority to deny a preliminary plan.

Ms. Pesec stated that the Commission does not have the authority to deny a preliminary plan based on traffic on that road.

Mr. Radachy stated you could base it on wetlands.

Mr. Siegel said they could appease everyone here if they came up with a conceptual plan showing what they agree to do to the property. Get the Trustees to buy into it. The residents may not be real happy but at least they would have a conceptional idea of what is planned. Doing a 70-acre conservation easement would also take care of the property if it is that bad in wetlands.

Mr. Brotzman said, in looking at the definition for physical hardship, the inability to sell the property is not considered a hardship that is recognized by our definition. It boils down to the owner's inability to sell this property without separating this into parcels. He asked for a legal opinion on whether or not this fits the definition.

Ms. Germano said whether or not this fits the definition is in the Board's discretion to make that determination. If you think you do not have enough information, she suggested asking more questions of Mr. Atwell about what he feels would be the extraordinary/ unnecessary hardship that would result if the variance is not granted based on exceptional topographical or physical conditions. This is really the Board's determination. You will have to weigh it; the extraordinary/ unnecessary hardship to the developer versus the potential



detriment to the public interest, and the intent and purpose of the regulations. It is sort of a balancing act that the Board will have to employ here.

Mr. Radachy stated that this variance does not generally fit into the Subdivision Regulations. It is not a definitory regulation. They would still need to ensure there is no detriment to the Lake County Subdivision Regulations. There is not any potential detriment of neighbors.

Ms. Pesec said there was a public component to it, and also the extraordinary and unnecessary hardship, plus the fact that there is another alternative if this variance is not granted.

Ms. Cimperman was concerned for the safety and well-being of the entire community. She appreciated what Mr. Cooke was trying to do in developing this land. She had talked to all the people who live on Green Road. There is one consideration she would ask for today and that is to not make this decision today because she found one woman who is very, very ill. She is on life support oxygen, has COPD, her husband is deathly ill and she said to me on Sunday that she wished she had sold her house when she was in her 70's. She is on six acres that backs into Mr. Green's land that would access the back end where they could develop the land and still have his golf course or sell it off. There are wetlands so she was unsure of how it could be divided. If they had more time to talk with her and postpone this body's decision until the next meeting, we might be able to solve her problem if the developer could come up with some reasonable offer. She desperately needs help and both she and her husband need to go into assisted living care. Her father is on the Board of the Solvene Home for the Aged. This is 91 acres that are for sale right now and has been for sale for a while. There are a lot of possibilities where he could possibly gain an easement and help somebody else in the community. She stated these are some other alternatives.

Mr. Markley of Atwell spoke on hardships. Granted, the property altogether is 239 acres. It would seem there are other options for access, but he could not speak to the engineering side of that. With empathetic appreciation of the resident's concerns, they need to remember this is a public street that was constructed with taxpayer dollars with public improvements funded by taxpayer dollars continuing to be maintained by public dollars. It is an accessing piece of property that had every intention of being extended. That is why the stub street is the way it is. Maybe only a conservation development of six or eight homes could be done because that is all the site will allow. He would expect to at least have access from a publically dedicated street. We do not know what is going to happen. There could be 100 homes, six homes or no homes, but at the end of the day, taxpayer dollars did go into building it and maintaining it on a consistent basis and we need to be mindful of that also.

Mr. Graham moved to table this variance until there can be further discussion.

Mr. Radachy was not sure if it could be tabled and stated that statutes address plats and preliminary plans to give us only 35 days to work on them. This is different and may be able to be tabled. There is no time limit to approve this.

Mr. Graham retracted his motion.

Mr. Radachy decided it could be tabled if the Commission wishes to because there is no time limit for approval. He also stated that he did not see any reason to table it. The property owner does deserve an answer.

Mr. Zondag thought that the developer could come back with a revised portion and still have the traffic flow into Green Road.

Mr. Radachy said that even if the property owner had a fee-simple access to Green or Chapel Roads, he could still access through Chimney Road even with only one access.

Mr. Brotzman asked if the Engineer would have any say in using Chimney Ridge as an exclusive access.

Mr. Radachy said there is a stub road at the end. The Engineer could not stop access to the property. It is our requirement. The Commission, not the Engineer, would give approval of the extension of the road even if there was only one way out.

Mr. Brotzman said during that period of time, stubs were pretty common but we very seldom see stubs today. Mr. Radachy said we do see stubs all the time. There is one off Madison Meadows that was approved in 2006 in Madison Township off Haines Road. Also, there is one in Cambden Creek and Orchard Springs. It is a common tool.

Mr. Brotzman thought they were less favored today than they used to be. Mr. Radachy stated that in Concord Ridge, they are connecting two stubs between Summerwood and Stanford Springs.

Mr. Siegel made a motion to approve the variance and Mr. Brotzman seconded the motion requesting a roll call vote be taken.

Mr. Radachy took the roll call vote as follows:

Mr. Graham – Yes	Mr. Valentic - Yes
Mr. Walker – No	Mr. Siegel – No
Mr. Brotzman – No	Ms. Pesec - No
Ms. Hausch – No	Mr. Zondag – Abstained

Mr. Radachy stated the motion failed with five no's, two yes's and one abstention.

## LAND USE AND ZONING REVIEW

### Madison Township – Zoning District Change from M-1, Light Manufacturing to A-1, Agricultural, PPN 01-A-013-0-00-008-0

Ms. Jordan stated that this district change is proposed in Madison Township and initiated by Ms. Crystal Miller and Mr. Chris Basich. The proposal is to change this district from M-1, Industrial to A-1, Agriculture. There are 10 acres of vacant land. This parcel is located on Wood Road and is currently zoned M-1. The surrounding parcels are Agriculture as well as Green Area. The land use areas to the north are Residential, to the south is Agriculture, the

east is Residential and the west is vacant. The 2007 Madison Township Comprehensive Plan corresponds to the proposed district change, which is Rural Residential with .75 to two-acre lots. The proposed zoning corresponds better with future land use than the current M-1, industrial zoning.

Comments:

- The proposed district change would be appropriate in the area concerned, as the area is primarily zoned A-1 and the majority of parcels have a residential land use. The current zoning, M-1 is not an appropriate use for this rural residential area.
- Land was zoned to Industrial because of the railroad.
- There is no sanitary sewer present making the industrial use not feasible for this parcel.

Staff recommends rezoning the subject parcel from M-1, Manufacturing, to A-1, Agriculture.

Mr. Zondag moved to recommend the zoning change be approved from M-1 to A-1 and Mr. Siegel seconded the motion.

Mr. Brotzman asked what A-1, Green Area was and was told it was a special zoning district in Madison Township and includes commercial recreation.

Mr. Radachy was asked why zone agriculture and not just residential. He stated that A-1 is actually a residential district and everything else around them is A-1. In township zoning, agriculture can be done anywhere. There is no such thing as agricultural zoning. This is a ½ acre lot.

All voted "Aye."

#### REPORTS OF SPECIAL COMMITTEES

There were no special committee reports.

#### CORRESPONDENCE

There was no correspondence.

#### OLD BUSINESS

There was no old business.

#### NEW BUSINESS

There was no new business.

#### PUBLIC COMMENT

There were no public comments.

## ADJOURNMENT

Mr. Zondag moved and Mr. Siegel seconded the motion to adjourn the meeting.

All voted "Aye."

The meeting adjourned at 7:36 p.m.